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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,032	12/11/2003	William Spence Rouverol		8425

7590

09/07/2005

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EXAMINER
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FRECH, KARL D

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/733,032

Applicant(s)

ROUVEROL, WILLIAM SPENCE

Examiner

Karl D. Frech

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11, 13 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 11, 13, 15, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 8, 10, 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. Applicant's response filed 2/3/05 has been entered. Claims 1-5,13,15-18 have been amended; claims 12 and 14 have been canceled.
2. The disclosure is objected to because of the following informalities: as amended the specification now refers to "Reference 3". However, "Reference 3" is not a proper form to indicate a specific reference. Applicant should replace "Reference 3" with - - U.S. Patent 3,240,409 - -.

Appropriate correction is required.

3. The attempt to incorporate subject matter into this application by reference to "Reference 3" is ineffective because applicant did not properly identify the reference, nor did applicant make the statement that this reference is "incorporated by reference". If applicant is actually attempting to incorporate by reference "Reference 3", applicant should make the statement that - - U.S. Patent 3,240,409 to Harris is incorporated by reference - -. Applicant should be aware, however, that incorporation by reference raises the issue of new matter as the subject matter of the Harris '409 patent was not incorporated at the time of initial filing of this current application.
4. The specification remains objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claims 6 and 9 recite a "Harris" ballot book. However, this term is nowhere defined in the specification. If applicant is referring to the references listed in the body of the specification to a J.P. Harris, it is pointed out that nowhere in the specification is it attempted to incorporate by reference the Harris references.

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5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 6,9 remain rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 6,9 recite a "Harris" ballot book. It is not clear from the specification what this "Harris" ballot book is.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7,9,11,13,15,17,18 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Rapp et al 5,260,550 in view of Yamashita et al 3,943,337. Rapp discloses a "punch" type vote recorder provided with a card block mounted in a fixed relation with a punch plate that has die openings which are positioned relative to the card block in the same manner as the positioning of photocells relative to the registration surface in a corresponding ballot reader. (col 2 lines 55-64). The punch plate is provided with a pattern of die openings in alignment with a similar pattern of guide passages in the guide plate (col 3 lines 1-5). The die openings have a diameter suitable for passing a punch tip while cooperating therewith to "shear" a chip from a ballot card (col 3 lines 4-7). The punch tip is round and has a negative taper (see fig 6). The "Harris" ballot book is disclosed (col 4 lines 40+), as is the kinematic support for the

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punch, i.e. punch shaft 110 and sleeve 112 (col 8 lines 33+). It is disclosed that the frame may be made of plastic (col 5 lines 55+). Rapp does not disclose the "back lighting" (examiner's words) as currently claimed. Yamashita et al discloses a punched card device that "back lights" a card to be read. It would have been obvious to a person of ordinary skill in the art at the time of the invention to "back light" the card of Rapp. This would effectively indicate for whom a voter voted. It is noted that metals by their nature are "non-galling" to a degree.

4. Claims 8,10,16 remain objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims for the same reasons as previously set forth.

5. Applicant's arguments filed February 3, 2004 has been fully considered but they are not persuasive. Applicant argues that Yamashita does not effectively disclose the "back lighting". The examiner respectfully disagrees. The examiner points out that although Yamashita is relied upon to disclose the basis of the "back lighting", it is the combination of Yamashita with Rapp which forms the rejection. Yamashita clearly discloses light sources 10 for reflection off of reflector 11. This reflected light is passed through the punch card and onto the light sensor. This is back lighting. However, the examiner acknowledges that the current invention claims backlighting a ballot when the vote is being cast, not when the ballot is being read. However, in combination, Rapp discloses the ballot and casting the ballot. Yamashita discloses back lighting of a ballot to pass light through the ballot. In combination Rapp and Yamashita would suggest to

one of ordinary skill in the art, passing light through the back of a ballot to allow the light to be "viewed" from the front of the ballot, thus indicating a voter's selection.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D. Frech whose telephone number is (571) 272-2390. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Karl D Frech  
Primary Examiner  
Art Unit 2876

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